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Indian Interpretation of the Korean Armistice Agreement

1. Attached is an elaboration of the first item in the CIB for 7 November on India's reported decision against the US position on the release of prisoners in Korea.

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Far Eastern Division
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**COMMENT ON INDIAN INTERPRETATION OF THE KOREAN
ARMISTICE AGREEMENT**

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 the Indian government interprets the Korean armistice agreement as requiring the Neutral Nations Repatriation Commission to conduct a full 90-day explanation period and to retain custody of the prisoners until 30 days after the political conference meets. The Indian argument is based on the "humanitarian ground" that prisoners who desire to be sent to some other country than Formosa or South Korea would be denied that right if the conference did not meet.

The need for an interpretation arises because the armistice agreement does not cover the contingency of failure to convene a political conference. Paragraph 60 (attached) contains a recommendation that a political conference be held within three months after the effective date of the armistice (i.e. by 27 October). Paragraph 11 (attached) of the Terms of Reference for the NNRC states that at the end of 90 days after the transfer of custody of the POW's to the NNRC, access of the "ex-plainers" to the POW's shall terminate, and the question of disposition of the remaining prisoners shall be submitted to the political conference. If the conference is unable to settle this question within 30 days, according to Paragraph 11, the prisoners will revert to civilian status within 120 days of the date of assumption of custody by the NNRC. During the ensuing 30 days, the NNRC will assist the prisoners to go to neutral nations and on completion of this task, will declare its own dissolution.

The Indian assertion that a full 90 days of explanations (the first interviews were held on 15 October) are required cannot be supported by Paragraph 11, since the agreement states clearly that the nations to which the POW's belong will have access to the prisoners "within 90 days after the NNRC takes over custody," and access will terminate "at the expiration of 90 days after the transfer of custody."

The Indian claim that 30 days of political conference discussion is a necessary step in the repatriation process is open to interpretation, since the agreement was written under the assumption that the conference would be held.

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The language of Paragraph 11 differs from the Indian position in that the 90-day "explanation" period and the 120-day period during which the NNRC has custody of the prisoners, as well as the terminating dates, are firmly fixed. Since the NNRC took custody on 24 September, the first period terminates on 23 December and the second on 22 January. The existence of a political conference would appear to have no bearing on these dates.

25X1X Since the five nations on the NNRC have the authority to interpret the terms of reference, and since India will cast the deciding vote on the commission, the Indian attitude is important. It is probable [REDACTED] that India may hope that by making the prisoner release contingent on the holding of a political conference, the United States may be induced to accept the Communist proposal for a round table conference with neutral participation.

It is noteworthy that the 22 January date on which the prisoners will revert to civilian status corresponds with the date which President Rhee asserts he will be no longer bound by his agreement with Secretary Dulles not to obstruct the armistice. Rhee has asserted that the Indians have already violated the armistice agreement and South Korea is therefore free to take any action to protect the prisoners it sees fit.

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KOREAN ARMISTICE AGREEMENT

Paragraph 60.

In order to insure the peaceful settlement of the Korean question, the military commanders of both sides hereby recommend to the governments of the countries concerned on both sides, that, within three (3) months after the Armistice Agreement is signed and becomes effective, a political conference of a higher level of both sides be held by representatives appointed respectively to settle through negotiation the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc.

TERMS OF REFERENCE FOR NNRC

Paragraph 11.

At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel as provided for in Paragraph 8 above, shall terminate, and the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in Paragraph 60, Draft Armistice Agreement, which shall endeavor to settle this question within thirty (30) days, during which period the Neutral Nations Repatriation Commission shall continue to retain custody of those prisoners of war. The Neutral Nations Repatriation Commission shall declare the relief from the prisoner of war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission has assumed their custody. Thereafter, according to the application of each individual, those who choose to go to neutral nations shall be assisted by the Neutral Nations Repatriation Commission and the Red Cross Society of India. This operation shall be completed within thirty (30) days, and upon its completion, the Neutral Nations Repatriation Commission shall immediately cease its functions and declare its dissolution. After the dissolution of the Neutral Nations Repatriation Commission,

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whenever and wherever any of those above-mentioned civilians who have been relieved from the prisoner of war status desire to return to their fatherlands, the authorities of the localities where they are shall be responsible for assisting them in returning to their fatherlands.